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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/851,042	05/08/2001	Randy D. Petrea	5236	2161

7590 01/29/2002

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EXAMINER

GOLLAMUDI, SHARMILA S

ART UNIT

PAPER NUMBER

1616

DATE MAILED: 01/29/2002

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/851,042	Applicant(s) PETREA ET AL.
Examiner	Art Unit Sharmila S. Gollamudi	1616

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on 08 May 2001.

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-16 is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) _____ is/are allowed.

6) Claim(s) 1-16 is/are rejected.

7) Claim(s) _____ is/are objected to.

8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All b) Some * c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) Notice of References Cited (PTO-892) 4) Interview Summary (PTO-413) Paper No(s). _____ .
2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) Notice of Informal Patent Application (PTO-152)
3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4. 6) Other: _____ .

DETAILED ACTION

Claims 1-16 are included in the prosecution of this application.

Claim Rejections - 35 USC § 112

Claims 7-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 7-16 recite the term "type" which is indefinite. See *Ex parte Copenhaver*, 109 USPQ 118.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 7-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Krall et al (5976562).

Krall et al disclose a polyurethane film incorporating silver. The antimicrobial silver is embedded in and coated onto the polyurethane. (Note example and col. 2, lines 5-15).

Claims 1-4, 7-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Capelli (5744151).

Capelli teaches a polyurethane adhesive film containing an antimicrobial and silver nitrate. The active agent is on the surface and within the film. (Note example 20)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Krall et al cited above, in view of JP 09002537.

As set forth above, Krall et al disclose a polyurethane film incorporating silver. Krall et al does not include an organic bactericide.

Krall et al do not teach silver based zirconium phosphate.

JP 09002537 teaches a container incorporating silver based zirconium phosphate since it provides less discoloration and deterioration. The reference teaches resin such as polyurethane. (Note abstract)

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Krall et al and JP 09002537 since both teach antibacterial articles. One would be motivated to use silver based zirconium phosphate since it provides less discoloration and deterioration as taught by JP 09002537.

Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 11028797 in view of JP 09002537.

JP 11028797 teaches a polyurethane film coated with an antimicrobial agent.

(Note abstract)

JP 11028797 does not teach silver as the antimicrobial compound or the incorporation of the active agent into the polyurethane.

JP 09002537 teaches a container incorporating silver based zirconium phosphate since it provides less discoloration and deterioration. JP 09002537 teaches resin such as polyurethane. Further, the reference teaches the incorporation of the active agent into the resin so that a reduced amount of antibacterial agent is used, thus reducing the overall cost. (Note abstract)

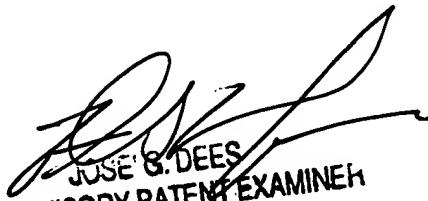
It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the teachings of JP 11028797 and JP 09002537. One would be motivated to do so since JP 09002537 teaches incorporating the antimicrobial into the substrate to reduce cost. Furthermore, JP 09002537 teaches that silver based zirconium phosphate since it provides less discoloration and deterioration, thus reducing cost.

Correspondence

Any inquiry concerning this communication from the examiner should be directed to Sharmila S. Gollamudi whose telephone number is (703) 305-2147. The examiner can be normally reached M-F from 7:30 am to 4:15pm.

If attempts to reach the examiner by the telephone are unsuccessful, the examiner's supervisor, Jose Dees, can be reached at (703) 308-4628. The fax number for this organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist, whose telephone number is (703) 308-1235.



JOSÉ G. DEES
SUPERVISORY PATENT EXAMINER

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